

A HISTORY OF ALTERNATIVE DISPUTE RESOLUTION

The Story of a
Political, Cultural, and Social
Movement

JEROME T. BARRETT
WITH JOSEPH P. BARRETT



Published in Affiliation with
THE ASSOCIATION
FOR CONFLICT RESOLUTION

ADR Timeline

1800 B.C.	Mari Kingdom (in modern Syria) uses mediation and arbitration in dispute with other kingdoms.
1400 B.C.	Ancient Egyptian Amarna system of international relations uses diplomacy.
1200–900 B.C.	Phoenicians (in the eastern Mediterranean) practice entrepreneurship and negotiations.
960 B.C.	Israel's King Solomon arbitrates dispute over baby by threatening to split the child.
700 B.C.	Rhodian Sea Law codifies traditional rules for determining liability for ship cargo losses and dispute resolution.
500 B.C.	Arbitration, called <i>Panchayat</i> , used in India.
400 B.C.	Greeks use public arbitrator in city-states. Arbitration decisions between city-state "published" on temple columns.
300 B.C.	Aristotle praises arbitration over courts.
100 B.C.	Western Zhou Dynasty establishes post of mediator.
452 A.D.	As Attila the Hun destroyed city after city in his sweep across Europe, Pope Leo the Great successfully negotiates to spare the city of Ravenna, Rome's western capital.
1000	European law merchant used in marketplaces.
1263	King Alfonso the Wise of Spain directs the use of binding arbitration with the publication of <i>Siete Partides</i> .

- 1400 Venice establishes first overseas diplomatic offices.
- 1632 Irish Arbitration Law provides statutory basis for arbitration.
- 1648 Count Maximilian mediates an end to the Thirty Years War for the Holy Roman Empire, establishing contours of Europe for a century.
- 1624–1664 During Dutch colonial period, commercial arbitration in wide use in New York City.
- 1664–1776 In British colonial period, commercial arbitration use continues.
- 1750s Benjamin Franklin, as Pennsylvania's Indian commissioner, reports learning persuasion, compromise, and consensus building from Native Americans. He also prints some of their peace documents.
- 1770 George Washington places arbitration clause in his will.
- 1776–1785 Benjamin Franklin, John Adams, and Thomas Jefferson negotiate in Europe on behalf of the weak United States, establishing a diplomatic history for the young nation.
- 1775–1860 From the Continental Congress to Lincoln's inaugural, repeated negotiations and compromises reach temporary solutions to the slavery issue.
- 1790 Thomas Jefferson mediates between Treasury Secretary Alexander Hamilton and Congressman James Madison, establishing the U.S. capital at Washington, D.C., and creating the national debt.
- 1865 Generals Lee and Grant negotiate the terms of the South's surrender, ending the Civil War.
- 1866 General Howard institutes arbitration in employment agreements between former slaves and former owners.

- 1888 Arbitration Act passed. Probably the first ADR statute in the United States providing voluntary arbitration and ad hoc commissions to investigate the cause of specific railway labor disputes.
- 1902 President Teddy Roosevelt mediates a long anthracite coal strike.
- 1906 Teddy Roosevelt mediates peace agreement ending the Russo-Japanese War, earning him the Nobel Peace Prize.
- 1913 Department of Labor created and mediates first labor dispute; mediates thirty-three disputes in its first year.
- 1914–1918 World War I uses ADR process to resolve labor disputes and establish labor agreements to aid war effort. Unions experience substantial growth. All wartime arrangements end with the peace in Europe.
- 1917 U.S. Conciliation Service created with permanent staff to mediate labor disputes.
- 1920 New York state passes first modern arbitration law; within five years, fifteen other states would follow.
- 1920s Aggressive employer tactics and a compliant government reduce collective bargaining and union membership.
- 1926 American Arbitration Association created from merger of an arbitration foundation and society.
- 1926 Railway Labor Act is passed after labor and management create a draft that both can support.
- 1932 Norris-La Guardia Act limits injunctions stopping union activities.
- 1935 National Labor Relations Act creates employee and union rights and prohibits antiunion practices of employers.
- 1942 War Labor Board created; uses ADR.
- 1945–1946 Most strikes ever in a single year.

- 1947 Taft-Hartley Act creates Federal Mediation and Conciliation Service, prohibits some union activities, and establishes ADR for national emergency disputes.
- 1962 President Kennedy's Executive Order 10988 required federal agencies to engage in collective bargaining with unionized employees, starting a movement toward public employment unionization at all levels of government.
- 1962 Steel Trilogy: U.S. Supreme Court recognizes labor arbitrators' expertise as final authority.
- 1965 Civil Rights Act protects minority rights and creates Community Relations Service to conciliate civil rights disputes.
- 1968 National Advisory Commission on Civil Disorder (Kerner Commission) reports the need for major social and legal changes to avoid a dangerous split in U.S. society.
- 1968 Ford Foundation creates National Center for Dispute Settlement and Center for Mediation and Conflict Resolution to apply labor-management ADR to civil rights, campus, and community disputes.
- 1969 President Nixon's Executive Order 11491 expands Kennedy's executive order on federal employment relations.
- 1972 Society of Professionals in Dispute Resolution (SPIDR) created as membership organization for all ADR practitioners. It would merge to become the Association of Conflict Resolution in the late 1990s.
- 1973 First environmental mediation: Snoqualmie River Dam project in Washington State.
- 1973 Prisoner grievance procedure in New York and California begins with nonbinding arbitration.

- 1974 Federal Mediation and Conciliation Service expands mission statement beyond labor-management.
- 1975 Collective bargaining honored with first-class postage stamp, first ADR process so honored.
- 1975 American Arbitration Association commits to new areas of ADR by moving experimental programs handled by the National Center for Dispute Settlement into AAA proper.
- 1976 Pound Conference promotes legal reform by encouraging ADR processes, including the multidoor courthouse.
- 1978 Camp David Accords result in Israeli-Palestinian agreement, with President Carter using single text negotiation process.
- 1979 Judicial Arbitration and Mediation Service established.
- 1981 *Getting to Yes* published, popularizing interest-based negotiations.
- 1981 Institute of Conflict Analysis and Resolution established at George Mason University.
- 1981 Air traffic controller strikers replaced by the government, subsequently labeled the beginning of the decline of the labor movement and collective bargaining.
- 1982 Academy of Family Mediators founded.
- 1982 Former President Carter establishes the Carter Center in Atlanta to, among other things, use ADR in international disputes.
- 1983 Program on Negotiation officially established at Harvard University.
- 1983 National Institute for Dispute Resolution established to encourage ADR with foundation funds.

xxx ADR TIMELINE

- 1983 Federal Aviation Administration becomes first federal agency to use negotiations to establish rules (RegNeg).
- 1984 Hewlett Foundation begins major funding for ADR.
- 1985 National Institute of Dispute Resolution funds pilot programs to encourage state governments to use ADR.
- 1987 Administrative Conference of the United States sponsors the Colloquium on Improving Dispute Resolution: Options for the Federal Government, and issues the *Sourcebook: Federal Agency Use of Alternative Means of Dispute Resolution*.
- 1989 Public Conversation Project begins, followed shortly by the Consensus Councils, which use comprehensive consensus processes to address public issues.
- 1990 Negotiated Rulemaking Act directs federal regulatory agencies to use consensus building and negotiation to create administrative rules.
- 1990 Administrative Dispute Resolution Act directs federal agencies to expand use of ADR.
- 1990 Civil Justice Reform Act initiates experiments to reform the federal courts with focus on ADR use.
- 1993 President Clinton issues Executive Order 12871 promoting partnership between federal agencies and their unionized employees, and the use of interest-based negotiations between them.
- 1995 Martindale-Hubble publishes the *Dispute Resolution Directory*, a comprehensive directory on ADR.
- 2000–2001 U.S. v. Microsoft antitrust case mediation effort.